

Office of Chief Counsel
Internal Revenue Service
memorandum

CC:MSR:KSM:KCY:TL-N-3156-99

MLBoman

date: JUL 14 1999

to: Chief, Examination Division, Kansas-Missouri District
Attention: David Moser, District Technical Coordinator
Attention: Vicki Pein, Large Case Manager, E:1335

from: Associate District Counsel, Kansas-Missouri District, Kansas City

subject: Consent to Extend Statute of Limitations - TEFRA Partnership
[REDACTED]
CEP Taxpayer

This is in response to your memorandum of May 6, 1999, requesting advice concerning the statute of limitations on [REDACTED]. It is our understanding that for the year in question, [REDACTED], [REDACTED] was a [REDACTED]% limited partner. The profits and losses of [REDACTED] ultimately flowed through a tiered arrangement of [REDACTED]. We are concurrently issuing advice on consents for [REDACTED].

The TMP of [REDACTED] was [REDACTED], a Sub-S corporation. In [REDACTED], [REDACTED], obtained a general partnership interest in [REDACTED] and became the TMP for subsequent years. In [REDACTED], [REDACTED] was dissolved. Taxpayer's representative has indicated that [REDACTED] should be the TMP for [REDACTED] also, but wants the Service to make the designation.

You have raised a series of four questions with respect to this issue.

1. Can action be taken to secure a consent to protect the statute of limitations on the [REDACTED]% limited partnership interest held by [REDACTED] in [REDACTED] while attempting to secure a consent executed by the TMP?

I.R.C. § 6229(b)(1)(A) permits agreements to extend the statute as to any partner by agreement with that partner. Protection of the statute at the partner level is to be done only if a consent cannot be obtained at the partnership level. IRM 4541.1(14). Since it appears that you will be able to secure the partnership consent, no further discussion of this issue is

necessary at this time. Should additional problems arise, we will revisit the issue as necessary.

2. What documentation is necessary to confirm the dissolution of [REDACTED]?

You have indicated telephonically that this question is moot. Taxpayers have demonstrated this to your satisfaction.

3. What is the proper procedure for [REDACTED] to be designated as the TMP for [REDACTED]?

The designated TMP for [REDACTED] was [REDACTED]. This corporation was dissolved in [REDACTED] of [REDACTED], which has the effect of terminating its designation as TMP. Treas. Reg. § 301.6231(a)(7)-1(l)(iii). Since the partnership has not designated a new TMP, the TMP would normally become the general partner with the largest profits interest. Treas. Reg. § 301.6231(a)(7)-1(m)(2). Since neither the [REDACTED] nor [REDACTED], were general partners that provision is inapplicable.

According to your memorandum, [REDACTED], became a general partner in [REDACTED]. This however does not make [REDACTED], the TMP, since the determination of the partner with the largest profits interest is determined at the close of the taxable year. Treas. Reg. § 301.6231(a)(7)-1(m)(2).

The circumstances are present for the Service to designate a TMP. Specifically:

- (1) The prior designation has been terminated; and
- (2) the partnership has failed to make a subsequent designation; and
- (3) it is impracticable to apply the largest profits interest rule.

Designation of the TMP by the IRS is however limited to a partner who was a partner at the close of the taxable year under examination.¹ Treas. Reg. § 301.6231(a)(7)-1(q). Thus, the

¹This is more restrictive than the ability of the partnership, who may designate a general partner at the time of the designation. Treas. Reg. § 301.6231(a)(7)-1(b)(ii).

choices for the Service to designate would be limited to [REDACTED] and the [REDACTED]. You should follow the criteria and procedures set forth in IRM 4226.31(12)(13).

4. What is the proper format to be used on the Forms 872-P identifying the tiers of partnerships and what signature will be required on the consent.

For purposes of this question, we assume that you will choose [REDACTED] as the TMP. Consistent with our other memorandum, there should be two signatures, as follows:

[REDACTED], by [name and title of signing official] on behalf of [REDACTED], Tax Matters Partner of [REDACTED], Tax Matters Partner of [REDACTED], Tax Matters Partner of [REDACTED], Tax Matters Partner of [REDACTED], Tax Matters Partner of [REDACTED].

[REDACTED], by [name and title of signing official], Tax Matters Partner of [REDACTED], Tax Matters Partner of [REDACTED], Tax Matters Partner of [REDACTED], Tax Matters Partner of [REDACTED], Tax Matters Partner of [REDACTED].

If we may be of further assistance, please contact Michael L. Boman at (816) 283-3046, extension 107. Since no further action is currently required, we are closing our file.

(signed) Michael L. Boman

MICHAEL L. BOMAN
Senior Attorney